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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re J.F. et al., Persons Coming
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH
AND HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

M.F.,

Defendant and Appellant.

D077520

(Super. Ct. Nos. NJ15343B-C)

APPEAL from an order of the Superior Court of San Diego County,
Michael J. Imhoff, Commissioner. Dismissed.

Suzanne M. Davidson, under appointment by the Court of Appeal, for
Defendant and Appellant.

Thomas E. Montgomery, County Counsel, Caitlin E. Rae, Chief Deputy
County Counsel, and Patrice Plattner-Grainger, Deputy County Counsel, for
Plaintiff and Respondent.

M.F. (Mother) appeals from the juvenile court's orders sustaining the
petitions of the San Diego County Health and Human Services Agency

(Agency) under Welfare and Institutions Code section 300, subdivision (c), on behalf of her minor children, J.F. and B.F.¹ She contends there was no substantial evidence to support the jurisdictional findings. The Agency disagrees, but primarily contends the appeal is moot because the court subsequently placed the minors with Mother and terminated its jurisdiction. We conclude the appeal is moot, and it is dismissed.

PROCEDURAL AND FACTUAL BACKGROUND

At the time the dependency proceedings commenced here, J.F. was 17 and B.F. was 15. They had been removed from their respective birth parents and adopted by Mother in early childhood. They both have cerebral palsy and other conditions, along with intellectual disabilities. Mother also adopted two other children with special needs: an older sister, Je.F., and a younger sister, E.F. Je.F. is now an adult and moved out of state, and E.F. was removed due to emotional abuse. Because the sisters are no longer in the home, and for purposes of clarity, we hereafter refer to J.F. and B.F. as the minors.

In December 2019, the Agency filed petitions as to the minors. The petitions alleged the minors were at substantial risk of serious emotional damage due to Mother's threat to have them removed by Child Welfare Services. They further alleged Mother's "behavior [was] similar to what . . . [E.F.] experienced and . . . contributed to [E.F.'s] mental health decompensating"; E.F. was removed in 2017 and again in 2018; and Mother "continued the same behaviors and threats of removal" toward the minors.

¹ Undesignated statutory references are to the Welfare and Institutions Code. The minors' father, Antonio F., is deceased.

The petitions also asserted Mother “struck [J.F.] in the face and head and pushed him”

The Agency’s detention report indicated there was a referral alleging Mother told B.F., “I’m going to get rid of you” and “CPS is coming for you.” A caretaker who assisted Mother recorded a conversation between her and B.F., which includes similar statements. For example, Mother told B.F. “even [J.F.] don’t want to be around you no more” and the “man is gonna come and get ya.” B.F. can be heard crying and saying “No.” The report set forth Mother’s child welfare history, reflecting numerous allegations of child abuse in the preceding years. It explained Mother’s parental rights to E.F. were being terminated and “efforts . . . to mitigate the risk of emotional abuse” were unsuccessful.² A neuropsychological evaluation prepared for E.F.’s case was attached. Multiple people, including the older sister, reported concerning behavior by Mother toward the minors, while others denied seeing such conduct.

At the detention hearing, the juvenile court found the Agency made a prima facie showing under section 300, subdivision (c), detained the minors, and ordered them to remain with Mother subject to several requirements, including that she allow entry into the home by the social worker, refrain from physical punishment, and continue therapy.

² Mother filed a writ petition from the setting of the section 366.26 hearing as to E.F., which we denied (Jul. 3, 2019, D075703). She later appealed from the termination of her parental rights. We reversed and remanded due to postjudgment events that impacted the juvenile court’s adoptability findings (Nov. 20, 2020, D077339). She had also appealed from a prior order in E.F.’s case, which we affirmed (May 28, 2019, D074919). We grant the Agency’s request for judicial notice of these decisions, to the extent they are pertinent to our mootness analysis. (Evid. Code, §§ 452, 459.)

The Agency’s jurisdiction/disposition and addendum reports in January 2020 provided additional information about the minors and their conditions; Mother’s awareness of the protective issues and engagement in therapy; and planned services. The Agency recommended the minors be declared dependents and placed with Mother.

The juvenile court held a contested jurisdiction and disposition hearing in February 2020. The court made true findings on the petitions and declared the minors dependents. The court then ordered them placed with Mother, contingent on appropriate conduct toward the minors.

Mother appealed. While the appeal was pending, the Agency requested judicial notice of orders from an August 2020 review hearing. The juvenile court found the conditions justifying jurisdiction no longer existed, and Mother had made substantial progress in alleviating or mitigating the reasons for removal. The court placed the minors with Mother and terminated jurisdiction.³

DISCUSSION

The Agency contends the appeal should be dismissed because the juvenile court placed the minors with Mother and terminated its jurisdiction, so there is no effective relief we can provide. We agree.

“ ‘An appeal becomes moot when, through no fault of the respondent, the occurrence of an event renders it impossible for the appellate court to grant the appellant effective relief.’ ” (*In re Anna S.* (2010) 180 Cal.App.4th 1489, 1498; *N.S.*, *supra*, 245 Cal.App.4th at p. 60 [“critical factor” is whether

³ We grant the Agency’s request for judicial notice of the August 2020 orders. (Evid. Code, §§ 452, 459; see *In re N.S.* (2016) 245 Cal.App.4th 53, 57 [dependency counsel have a duty to raise “postappellate rulings . . . that affect whether the appellate court can or should proceed to the merits”].)

effective relief can be provided]; *id.* at p. 56 [courts have duty to decide actual controversies, not opine on moot questions].) “As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.] However, dismissal for mootness in such circumstances is not automatic, but ‘must be decided on a case-by-case basis.’” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.)

Here, the juvenile court’s order terminating jurisdiction placed the minors with Mother. The order also found she had made substantial progress in alleviating the causes of removal. We conclude there is no effective relief we could grant Mother with respect to the jurisdictional findings and orders. The appeal is therefore moot, and dismissal is proper.

Mother’s arguments to the contrary are unavailing. First, she contends her appeal is either not moot, or is moot but still entitled to review, because the court’s jurisdictional findings could have a negative impact on future proceedings. This argument is not only speculative, but also fails to account for the record here. The jurisdictional findings implicate Mother’s emotional abuse of the minors. Mother’s child welfare history already includes emotional abuse toward the minors’ sibling, E.F., which led to E.F.’s removal. (Cf. *In re J.C.* (2014) 233 Cal.App.4th 1, 4 “[e]ven if the current jurisdictional finding were erased, father is still left with an established history” based on other children].) Further, notwithstanding Mother’s history, the juvenile court still placed the minors with her and terminated its jurisdiction. She does not establish the jurisdictional findings will prejudice her in some future dependency proceeding. (See, e.g., *N.S.*, *supra*, 245 Cal.App.4th at p. 62 [seeing “no reason” to review jurisdictional findings, based on speculation].)

The cases Mother cites do not compel a different result. *In re Drake M.* (2012) 211 Cal.App.4th 754 addressed situations in which a reviewing court

may exercise its discretion to reach jurisdictional findings, but she does not show they exist here. (*Id.* at pp. 762-763 [addressing merits where appeal impacted whether or not father was offending parent; stating courts generally reach merits when findings support dispositional orders also on appeal, could impact current or future dependency cases, or have “other consequences” for appellant].) The other cases involve findings with a continuing impact on matters like custody or visitation, or are otherwise distinguishable. (See, e.g., *In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547 [declining to find moot father’s appeal from “orders establishing custody and visitation and terminating the dependency case”; jurisdictional findings were the basis for the orders, and he would be estopped from relitigating them].)⁴

Second, Mother cites *In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1404, where this court held we can exercise our discretion to resolve a moot issue “if the question . . . is of continuing public importance and is . . . capable of repetition, yet evading review.” She does not show such a question exists here. (See *In re David B.* (2017) 12 Cal.App.5th 633, 644 [dismissing moot appeal; declining to address “fact-specific questions” as to whether

⁴ See also *In re J.K.* (2009) 174 Cal.App.4th 1426, 1431-1432 (juvenile court sustained jurisdictional findings as to father, gave mother custody, and terminated jurisdiction; father’s appeal was not moot where, among other things, the “findings . . . had an adverse effect on his custody rights”); *In re D.C.* (2011) 195 Cal.App.4th 1010, 1015 (addressing jurisdictional ground that mother subjected minor to act of cruelty, where other ground was not challenged; summarily agreeing the ruling could potentially prejudice her in future proceedings); *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452 (reaching jurisdictional finding that mother failed to protect children from risk of sexual abuse, which carried “particular stigma,” and reaching finding that she exposed them to physical abuse, which motivated a particular order and could impact later proceedings).

jurisdictional finding was supported by substantial evidence].) If anything, this appeal appears to implicate similar concerns regarding emotional abuse as in E.F.’s case—a case this court has reviewed multiple times. The authorities Mother cites are again distinguishable. (See, e.g., *Yvonne W.*, at p. 1404 [issues were of “continuing public importance,” because they challenged a court finding that housing, previously deemed adequate, created a substantial risk of detriment]; *In re J.E.* (2016) 3 Cal.App.5th 557, 559, 564, and fn. 3 [electing to address extension of services to 24 months, including impact of statutory amendments].)

Finally, Mother argues judicial review ensures she is “given her due process right to challenge the findings,” and not be foreclosed from doing so. But Mother does not explain how carrying out our judicial duty to avoid moot questions implicates due process, and her citation to *Joshua C.* does not aid her. The Court of Appeal there did not suggest, much less hold, there was a due process right to pursue moot claims on appeal; rather, it declined to declare the father’s appeal moot under the circumstances. (*Joshua C.*, *supra*, 24 Cal.App.4th at pp. 1547-1549.) We do conclude Mother’s appeal is moot, for the reasons discussed *ante*.

DISPOSITION

The appeal is dismissed.

HUFFMAN, Acting P. J.

WE CONCUR:

DATO, J.

GUERRERO, J.